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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,304	10/21/2003	James P. Kuntz	46982.0002	6888

7590 06/25/2004
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EXAMINER

DOUGLAS, STEVEN O

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,304

Applicant(s)

KUNTZ, JAMES P.

Examiner

Steven O. Douglas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 36-42 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-28 is/are allowed.
- 6) ☒ Claim(s) 1,4-9,12-14,29,35 and 43-46 is/are rejected.
- 7) ☒ Claim(s) 2,3,10,11,15,30-34 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03012004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I. in the reply filed on 6-10-04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant's election with traverse of Group I. in the reply filed on 6-10-04 is acknowledged. The traversal lacks any argued ground(s). Accordingly claims 36-42 are withdrawn from further consideration.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4-9,12,14,29,43,44 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuntz'876.

The Kuntz reference discloses a fitting (see Fig 2) for defueling an aircraft comprising first and second structural connectors (16,18) with respective forward sealing surfaces

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(unlabeled) for connection with the aircraft and rearward portions arranged with connection with flange 10 (i.e. mount), and an actuator assembly 30 (see Fig. 5 and 6) including insert 42.

In regard to claim 29, the mount 10 can be considered to have a tapered portion (i.e. "angled") proximate where element 30 meets element 20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13,35 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuntz'876.

The Kuntz reference discloses a defueling fitting (supra), but does not disclose the actuator assembly or pin insert as being sized to accommodate a Boeing C-17. It would have been obvious to one of ordinary skill in the art the time the invention was made to modify the Kuntz device to have different sized pin inserts, particularly one sized to accommodate a Boeing C-17, since it has been held that discovering an optimal working value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Applicant is also respectfully asked to see *In re Aller*, 105 USPQ 233 where the holding of the discovering of the optimum or workable ranges is discussed. (NOTE: this is merely a note and not a rejection with respect to the claims)

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Kriewaldt, Hannick and Gabrielyan references pertain to references cited in a relate application.

Claims 16-28 are allowed.

Claims 2,3,10,11,15,30-34 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

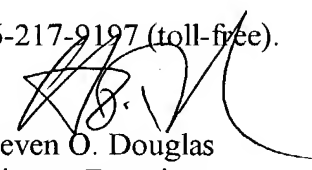
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is 703-308-0891.

The examiner can normally be reached on Wed-Fri 6:30-7:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven O. Douglas
Primary Examiner
Art Unit 3751

SD
06-23-04